

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

BERNICE YOUNG,)	Case No.: _____
)	
Plaintiff,)	
)	
v.)	NOTICE OF REMOVAL [28 U.S.C. § 1441, et seq.]
)	
LIBERTY MUTUAL FIRE INSURANCE COMPANY,)	
)	
Defendant.)	
)	

TO: The Honorable Peter A. Moore, Jr.
Clerk of United States District Court
Eastern District of North Carolina
United States Courthouse
P.O. Box 25670
Raleigh, NC 27611

PLEASE TAKE NOTICE Defendant, Liberty Mutual Fire Insurance Company (“Liberty Mutual”), hereby gives notice of the removal of the above-captioned action, pursuant to 28 U.S.C. § 1441, *et seq.*, from the Superior Court of Sampson County, North Carolina, to the United States District Court for the Eastern District of North Carolina, Southern Division. As grounds for this removal, Liberty Mutual states:

1. On or about March 9, 2020, Plaintiff, Bernice Young (“Plaintiff”), commenced a civil action against Liberty Mutual by filing a complaint in the Superior Court of Sampson County, North Carolina, Civil Case No. 20-CVS-292 (“State Court Action”). In the complaint, Plaintiff states claims against Liberty Mutual for alleged breach of contract and alleged unfair or deceptive trade practices under N.C. Gen. Stat. §§ 58-63-

15 and/or 75-1.1, *et seq.* *See* Complaint and accompanying summons attached hereto as Exhibit A, ¶¶ 19-31. Plaintiff's claims against Liberty Mutual allegedly arise from its denial of all or part of a property damage claim Plaintiff filed under a homeowner's insurance policy issued to her by Liberty Mutual. *See id.* ¶¶ 8-18.

2. On or about March 30, 2020, Plaintiff filed an Amended Complaint in the State Court Action. In the Amended Complaint, Plaintiff realleged her claims against Liberty Mutual for alleged breach of contract and alleged unfair or deceptive trade practices under N.C. Gen. Stat. §§ 58-63-15 and/or 75-1.1, *et seq.* *See* Amended Complaint attached hereto as Exhibit B, ¶¶ 19-31. Plaintiff's claims against Liberty Mutual allegedly arise from its denial of all or part of a property damage claims Plaintiff filed under a homeowner's insurance policy issued to her by Liberty Mutual. *See id.* ¶¶ 8-18.

3. As a result of Liberty Mutual's alleged conduct, Plaintiff alleges in her Amended Complaint that she has sustained damages in excess of \$25,000.00. *See* Exhibit B at ¶ 22 and ¶ 32. Plaintiff further asserts that she is entitled to three times the compensatory damages fixed by a verdict in this action as provided by N.C. Gen. Stat. § 75-16.1, *see* Exhibit B at ¶ 33. Plaintiff filed her action with the Superior Court of Sampson County, N.C., which court has jurisdiction over all civil matters exceeding \$25,000.00 under N.C. Gen. Stat. § 7A-240 and 243. Accordingly, it is apparent from the face of Plaintiff's Amended Complaint that the \$75,000.00 monetary threshold for removal, exclusive of interests and costs, under 28 U.S.C. § 1332 has been met.

4. Plaintiff served process issued to Liberty Mutual in the State Court Action through the North Carolina Department of Insurance on March 23, 2020, and the North

Carolina Department of Insurance, in turn, forwarded a copy of the summons and complaint to Liberty Mutual, which received process on March 26, 2020. A copy of the relevant correspondence evidencing service is attached hereto as Exhibit C.

5. Based on the service dates above, Liberty Mutual is timely filing this notice of removal within 30 days after receiving the first pleading or notice that the State Court Action may be removed to this Court under 28 U.S.C. § 1446(b)(1).

6. Since the alleged amount in controversy in the State Court Action exceeds the sum of \$75,000, exclusive of interest and costs, this Court has original jurisdiction over the action, pursuant to 28 U.S.C. § 1332, since there is complete diversity of citizenship among the parties by virtue of the allegations in Bernice Young's Amended Complaint and the fact that:

- a. Plaintiff is a resident of North Carolina. *See Exhibit B at ¶ 9; and*
- b. Upon information and belief, Plaintiff is a citizen of the District of Columbia. *See Exhibit D, Plaintiff's Voting Record;*
- c. Liberty Mutual is a corporation organized under the laws of the State of Wisconsin that maintains its principle place of business in Boston, Massachusetts. *See Exhibit E, Liberty Mutual Fire Insurance Company's registration information on file with the National Association of Insurance Commissioners, as maintained by the North Carolina Department of Insurance.*

7. The State Court Action is currently pending in the Superior Court of Sampson County, North Carolina, which county is located within the geographic

boundaries for this Court's Southern Division; therefore, the venue of this action is proper with this Court upon removal pursuant to 28 U.S.C. §§ 1441(a) and 1446(a).

8. Liberty Mutual will promptly notify Plaintiff, along with the Clerk of Court for Sampson County, North Carolina, of the removal of the state court action to this Court through the filing and service of this notice with said Clerk of Court, as required by 28 U.S.C. § 1446(d).

Respectfully submitted, this the 22nd day of April, 2020.

WALL TEMPLETON & HALDRUP, P.A.

By: /s/ Brianna H. Walther
Brianna H. Walther (NCSB 52443)
1001 Wade Avenue, Suite 423
Raleigh, North Carolina 27605
Tele: (919) 865-9500
Fax: (919) 865-9501
Email: brianna.walther@walltempleton.com

*Attorneys for Defendant Liberty Mutual Fire
Insurance Company*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that she supervised her office in the service of the foregoing “**Notice of Removal**” on the following parties or on counsel for the parties to this action by depositing a copy of the same in the United States mail, postage prepaid, addressed as follows:

Matthew S. Bissette, Esq.
WHITLEY LAW FIRM
3301 Benson Drive, Suite 120
Raleigh, NC 27609
Attorneys for Plaintiff

Submitted this 22nd day of April, 2020.

WALL TEMPLETON & HALDRUP, P.A.

By: /s/ Brianna H. Walther
Brianna H. Walther (NCSB 52443)
Email: brianna.walther@walltempleton.com

*Attorneys for Defendant Liberty Mutual Fire
Insurance Company*